IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.24 OF 2007
WITH
CIVIL APPLICATION NO. 44 OF 2007

Mr.Joseph Augustine D'Souza & Ors. ..Appellants.

V/s.

Addl.Collector & Competent Authority
U.L.C.Greater Mumbai & ors. ..Respondents.

Mr.Jitendra D. Damani for appellants.

Mr.A.R.Patil, AGP for Respondent-State.

Mr.H.S.S.Murty with Piyush Shah for Respondent No.4.

CORAM: A.M.KHANWILKAR,J

DATE : JANUARY 12, 2007.

P.C. :

1. Heard the counsel for the parties.

2. As I indicated my mind, counsel appearing for the appellants fairly states that in that case, the Court may direct the trial Court to expeditiously dispose of the pending Notice of Motion on its own merits in accordance with the law. Although, even this prayer is opposed by the respondent on the argument that it is the appellants, who did not allow the trial Judge to decide the Notice of Motion finally, but insisted only for grant of ad-interm relief inspite of full length of hearing, in my

opinion, in the interest of justice as well as in the interest of both the parties, it is appropriate that early decision on the Notice of Motion is rendered.

3. Counsel appearing for the parties have submitted before me that pleadings are complete and the notice of motion is ready for hearing and that the notice of motion has been made returnable on 25th January, 2007. It is ordered that the trial Judge may proceed to finally dispose of the notice of motion on that date or such other date, as may be convenient to that court, while ensuring that the same is finally disposed of in any case by end of February, 2007.

4. It is brought to my notice that no affidavit has been filed on behalf of the authorities and the Corporation before the trial Court. Counsel appearing for the State points out that the dispute is essentially between private parties and no reply of the authorities or the Corporation would be required at this stage of the proceeding. It will be open to the trial Court to examine that aspect, if required and pass necessary order on 25th January, 2007, when Notice of Motion is listed for hearing.

All questions in that behalf are left open to be decided on its own merits. Ordered accordingly.

5. In view of the above order, appeal as well as civil application disposed of accordingly.